Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of Application by Verizon Virginia Inc., Verizon Long Distance Virginia Inc., Verizon Enterprise Solutions Virginia Inc., Verizon Global Networks Inc., and Verizon Select Services of Virginia Inc., for Authorization To Provide In-Region, InterLATA Services in Virginia	)))))))))))	WC Docket No. 02-214

COMMENTS OF AT&T CORP.

David W. Carpenter
SIDLEY AUSTIN BROWN & WOOD
Bank One Plaza
10 South Dearborn Street
Chicago, Illinois 60603
(312) 853-7000

Mark C. Rosenblum
Lawrence J. Lafaro
James J.R. Talbot
AT&T CORP.
295 North Maple Avenue
Basking Ridge, NJ 07920
(908) 221-8023

David M. Levy
James P. Young
Richard E. Young
SIDLEY AUSTIN BROWN & WOOD, L.L.P.
1501 K St., N.W.
Washington, D.C. 20005
(202) 736-8000

Attorneys for AT&T Corp.

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SHORT CITE	**FULL CITE**
Order	*the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, CC Docket Nos. 00-218 *et al*. (rel. July 17, 2002)

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COMMENTS OF AT&T CORP.

Pursuant to the Commission's Public Notice, AT&T Corp. ("AT&T") respectfully submits these comments in opposition to the joint application of Verizon for authorization to provide in-region, interLATA services in Virginia.

INTRODUCTION AND SUMMARY

If ever a Section 271 application were premature, this is one. Over six months ago, the record closed in the arbitration before the Commission over the rates, terms and condition by which Verizon provides unbundled network elements ("UNEs") and interconnection to CLECs in Virginia.[1] A month ago, the Commission issued a decision

[1] *Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, CC Docket Nos. 00-218 *et al*. ("*Virginia Arbitration*").

on the non-cost issues in the case.[2] Verizon has not complied with the order, and filed a 40-page petition for "clarification or reconsideration" of the order just five days ago, on August 16.[3]

The pricing and cost issues in the arbitration still await a Commission decision. While the appropriate rate for each Verizon service at issue is for the Commission to decide in the arbitration docket, it is clear that the Verizon's existing rates can no longer be regarded as TELRIC-compliant. On a cost adjusted basis, Verizon's Virginia non-loop rates are *43 percent* higher than their counterparts in New York, that state that the Commission has used as its rate-to-cost benchmark for TELRIC compliance in other Verizon states. For Verizon's switching rates, the disparity is 53 percent. And even Verizon has proposed in the pending arbitration to reduce many of its other existing rates.

It is also clear that Verizon's entry into the interLATA market in Virginia is inconsistent with the public interest. Almost no UNE-based entry has occurred in Virginia, and the prospects for increased UNE-based competition are bleak. Many of the facilities-based CLECs that Verizon identifies as its competitors are going out of business, or are otherwise in financial distress. Finally, the public interest requires denial of Verizon's Section 271 application until the Commission imposes effective remedies for Verizon's premature and unlawful marketing of long distance services in Virginia and throughout Verizon's service territory.

[2] *Id., Memorandum Opinion and Order* (rel. July 17, 2002) ("*Virginia Arbitration Non-Cost Order*").

[3] *Id.*, Verizon's Petition for Clarification and Reconsideration of July 17, 2002 Memorandum Opinion And Order (filed Aug. 16, 2002).

The balance of these comments is organized as follows. Part I, supported by the attached declarations of Brian Pitkin and Catherine Pitts, demonstrates that Verizon's non-loop recurring rates in Virginia fail the Commission's benchmark test. Part II demonstrates that neither Verizon's loop or non-loop rates are TELRIC-compliant. Part III demonstrates that Verizon does not provide reasonable and nondiscriminatory access to UNEs and directory listings. And Part IV demonstrates that Verizon's monopoly power over residential service in Virginia remains virtually unchecked, that Verizon's local markets in Virginia remain virtually closed to UNE-based competition, and that Verizon has engaged in widespread unlawful marketing of its long distance services before receiving section 271 authorization to do so. For all of these reasons, approval of Verizon's application would be inconsistent with the public interest.

I. VERIZON'S NON-LOOP RATES FAIL THE COMMISSION'S BENCHMARK TEST.

The Commission has in the past used Verizon's New York UNE rates to determine whether Verizon's UNE rates in other states are within a range that a reasonable application of TELRIC principles would have produced.[4] As shown in the attached declaration of Brian Pitkin, Verizon's non-loop rates in Virginia fail this benchmark test.

On a cost-adjusted basis, Verizon's non-loop rates in Virginia exceed those in New York by 43 percent in the aggregate, and Verizon's switching rates in Virginia exceed those in New York by 53 percent. *See* Pitkin Decl. Verizon does not deny this fact. Instead, Verizon invites the Commission to ignore these enormous disparities—and Commission precedent—by limiting its benchmark comparison to loop rates alone.[5] The

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[4] *See, e.g.,* NJ 271 Order ¶¶ 49-55; VT 271 Order ¶ 26; RI 271 Order ¶ 39.

[5] *See* Woltz-Garzillo-Prosini Decl. ¶ 76.

Commission has never approved a Section 271 application on the basis of such an incomplete comparison, and for good reason.

Section 252(d)(1) in turn requires that charges for network elements and interconnection shall be "based on the cost . . . of providing . . . *the* network element." 47 U.S.C. § 252(d)(1) (emphasis added). Moreover, competitive checklist item five requires Bell companies to offer "[l]ocal transport from the trunk side of a wireline local exchange carrier switch *unbundled from switching or other services*." 47 U.S.C. § 271(c)(2)(B)(v) (emphasis added). And competitive checklist item six requires Bell companies to offer "[l]ocal switching *unbundled from transport, local loop transmission, or other services.*" *Id*., § 271(c)(2)(B)(vi) (emphasis added). The competitive potential of unbundling switching and transport will remain stillborn, however, unless each element can be ordered an appropriate separate price. Hence, "TELRIC prices are calculated on the basis of *individual* elements." *Verizon Communications Inc. v. FCC*, 122 S.Ct. 1646, 1678 (2002) (emphasis added).[6] Therefore, to gain § 271 approval, a BOC must show that the rates for each of its network elements comply with TELRIC principles.

Indeed, the whole purpose of unbundling is to allow an entrant to purchase – at cost-based rates – only the elements necessary to implement its particular entry strategy. If a BOC were free to evade the requirement to offer each element that qualifies for unbundling at cost-based rates by offering some elements at low rates and others at inflated rates, the BOC would have the ability to tailor its rates to impede the entry strategies that posed the greatest risk to its local monopolies. Moreover, CLECs are not indifferent to the relative levels of non-loop and loop costs. A substantial portion of non-

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[6] *See also AT&T Corp. v. Iowa Utilities Board*, 525 U.S. 366, 394 (1999) ("The dictionary definition of 'unbundled' (and the only definition given, we might add) matches the FCC's interpretation of the word: 'to give separate prices for equipment and supporting services.'").

loop costs are recovered on a usage basis, whereas loop costs are fixed. A CLEC that serves high usage customers, therefore, would be very sensitive to usage costs, and less sensitive to non-usage costs.

To be sure, the Commission has recognized that the potential arbitrariness of certain allocations may require some combination of rate elements to achieve meaningful comparisons. The Commission has, for example, compared total switching costs (and even total non-loop costs) in recognition of the fact that states may differ in the ways that they allocate such costs among usage and port charges. However, no such issues arise with non-loop and loop-related costs. That is because the Commission's rules specifically prohibit state commissions from allowing carriers to allocate loop-related costs to a switching element or vice-versa. *See* 47 U.S.C. § 51.509(a)-(b). *See also PA 271 Order* ¶ 66 ("we consider the reasonableness of loop and non-loop rates separately"); *KA/OK 271 Order* ¶¶ 82-95 (comparing loop costs only); *MA 271* ¶ 26 (comparing only non-loop rates).

Where, as here, the applicant's non-loop rates are higher (on a cost-adjusted basis) than those in a valid benchmark state, the applicant must prove – with specific cost evidence – that its non-loop rates are appropriately cost-based. Verizon did not, and could not, do that. As demonstrated below, Verizon's Virginia UNE rates are riddled with clear fundamental TELRIC errors.

II. VERIZON HAS FAILED TO ESTABLISH THAT ITS RECURRING AND NON-RECURRING RATES SATISFY BASIC TELRIC STANDARDS.

The record in the pending arbitration proceedings involving Verizon's UNEs and UNE prices in Virginia, currently awaiting a decision on pricing issues by this

Commission,[7] makes clear that many of Verizon's UNE prices in Virginia are far above TELRIC. The evidence submitted by AT&T and WorldCom to the Commission establishes that most of Verizon's current UNE prices are far higher than TELRIC-justified costs—often more than two or three times as high. This is true for both recurring and non-recurring costs, and true whether one bases the TELRIC cost estimates on AT&T/WorldCom's cost models or Verizon's own models. The following table illustrates this fact:

Comparison of Current Verizon SGAT Recurring Charges In Virginia With Those Proposed by AT&T/WorldCom In the Ongoing FCC Virginia UNE Rate Arbitration

Element	Verizon SGAT	AT&T/WCOM Synthesis Model Rate	AT&T/WCOM Restatement of Verizon Cost Study Rate
2-Wire Basic Unbundled Loop			
Density Cell 1	$10.74	$5.28	$4.98
Density Cell 2	$16.45	$7.23	$7.37
Density Cell 3	$29.40	$14.69	$11.77
Switching			
POTS Port	$1.30	$2.22	$0.95
Switch Usage – Origin. MOU	$0.0041290	$0.0003400	$0.0003214
Switch Usage – Termin. MOU	$0.0020790	$0.0003400	$0.0002838
Tandem – MOU	$0.0005480	$0.0008400	$0.0001150
Transport			
Common	$0.0005480	$0.0004900	N/A

[7] CC Docket No. 00-218, *Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*; CC Docket No. 00-251, *Petition of AT&T Communications of Virginia Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia Corporation Commission Regarding Interconnection Disputes With Verizon Virginia Inc.*

AT&T will not repeat most of the numerous TELRIC violations that cause Verizon's existing UNE prices to be inflated; the following two examples should suffice.

First, the average cost of an unbundled loops in Virginia has fallen significantly since 1997, the vintage of most of the cost data underlying Verizon's existing rates, in large part because of a growth in the number of lines demanded by Virginia residents, and in part because telecommunications is a declining-cost industry. AT&T's cost testimony in the pending arbitration at the Commission concerning Verizon's UNE prices demonstrates this fact, as do publicly available Verizon-specific ARMIS data. *See* Pitkin Decl. ¶¶ 27-29.

The cost data underlying Verizon's current rates for unbundled switching are also stale. The Verizon Phase I switching cost studies were initially developed in late 1996. The switch discounts used by Verizon in its cost studies reflect the discounts on replacement and growth switching equipment that Verizon was able to achieve during the early to mid-1990's. Since that time, switch vendors have offered more aggressive – indeed steeper – discounts on new switching equipment. Pitts Decl. ¶ 6.

In addition to offering steeper discounts on replacement switch equipment, vendors have increased the level of discounts available on growth or add-on equipment to the point where these discounts are almost to the level of the traditionally higher new switch discounts. By failing to update the switch rates to reflect the steeper discounts now available for both new and add-on switching equipment, the forward-looking switch investments, and thus the switch rates, are overstated. Pitts Decl. ¶ 7.

Furthermore, switch components have been evolving, allowing greater capacities, thus reducing unit costs.[8] And Verizon's merger with Bell Atlantic that doubled the number of switches of the merged entity, and the subsequent merger with GTE vastly increased the purchase power of Verizon. This increased purchasing power allows Verizon to negotiate lower switch prices than it could obtain prior to the mergers. Verizon's use of old, higher prices at the time of the hearing resulted in switch UNE rates that were not cost based. Pitts Decl. ¶ 8.

Further evidence of the unreasonableness of Verizon's existing UNE prices is the sheer magnitude of the margins (43 and 53 percent, respectively) by which Verizon's non-loop rates and switching rates fail the Commission's standard benchmarking comparison against Verizon's New York rates. When the percentage markup over cost in State B is so much higher than in State A, the notion that both sets of rates are TELRIC-compliant renders the zone of TELRIC compliance so elastic as to be meaningless.

Even Verizon has implicitly conceded that many of its existing UNE prices in Virginia are not TELRIC-compliant. In the pending arbitration docket before the Commission, Verizon has actually proposed to *reduce* many of its existing rates:

[8] Examples include trunk peripheral equipment (SONET-based), GR303 integrated digital loop carrier (IDLC), and ISDN packet handling equipment.

Comparison of Verizon Current Virginia SGAT Rates With Those Proposed by Verizon In the Ongoing FCC Virginia UNE Rate Arbitration		
Element	**Verizon SGAT**	**Verizon FCC Arbitration Cost Study Rate[9]**
DS-1 Unbundled Loop - Density Cell 3	$181.29	$172.11
DS-1 Feeder Subloop - Density Cell 1	$127.62	$116.62
DS-1 Feeder Subloop - Density Cell 2	$167.37	$129.86
DS-1 Feeder Subloop - Density Cell 3	$167.37	$132.12
Tandem Switching – MOU	$0.0005480	$0.0001330
Switched DS-1 Port	$188.40	$91.14
Dedicated Trunk Port - End Office	$154.11	$90.84
Dedicated Trunk Port – Tandem	$154.11	$92.67
Signaling Database - 800 Basic Query	$0.0006580	$0.0002210
Customized Routing Per Line	$0.1208500	$0.0014000
SMS – Certification and Testing Per Hour	$76.49	$64.84
SMS – Help Desk Support Per Hour	$80.95	$69.36
Database Queries - Network Query	$0.0006000	$0.0004500
Database Queries - CLEC Network Query	$0.0006000	$0.0004500
Database Queries - CLEC Switch Query	$0.0006000	$0.0004500
Utilization Element - Service Charge	$0.0003100	$0.0000900
Service Modification - DTMF Update Per Change	$0.1000000	$0.0220700
Service Modification - Switch Based Announcement	$0.0031800	$0.0025800
Dedicated Transport - STS-1	$872.08	$496.37
Dedicated Transport - OC-3	$1,442.79	$1,119.00

These proposed rate reductions are telling. That Verizon felt obliged to reduce any of its existing UNE prices in Virginia is an eloquent admission about how indefensible they have become.

Verizon attempts to dismiss these as irrelevant under section 271, asserting that its "current UNE rates are no less TELRIC-compliant simply because [the Commission arbitration] proceeding is underway."[10] Verizon misses the point. Verizon's existing rates violate TELRIC not because a follow-up rate case happens to be pending, but because the evidence submitted in it shows that Verizon's rates are now far in excess of TELRIC-compliant levels.

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[9] Source: *Virginia Arbitration*, Verizon Supplemental Surrebuttal, Attachment M.

[10] VZ Application at 13-14, 56.

Verizon's reliance on the cost determinations made by the Virginia SCC in the 1997-99 UNE rate case is misplaced for a further reason. As Verizon concedes, the rates for "some" UNEs (e.g., the UNEs established in the FCC's *UNE Remand Order*) were not adjudicated in that case, and have never been adjudicated by the Virginia SCC in any other proceeding since then.[11]

Finally, the Commission should also reject Verizon's suggestion that the existence of TELRIC-compliant rates is unnecessary for approval of Verizon's 271 application because Verizon has "agreed to true-up" its switching rates "to the switching rates this Commission establishes in the arbitration proceeding," and the Commission in any event can supersede any other Verizon rate, if prospectively only, when the Commission "establishes its own Virginia UNE rates."[12] The possibility that an unknown number of Verizon's existing UNE prices may be adjusted by unknown amounts at some unknown future date does not begin to make Verizon's 271 application lawful.

In the previous 271 cases in which the Commission has accepted a true-up proposal in lieu of a finding that the applicant's existing rates were TELRIC-compliant, the true-up arrangements were limited to rates for a relatively small subset of the carrier's UNEs or other services. *See Georgia-Louisiana 271 Decision* ¶ 91 (accepting true-up proposal for DUF rates); *New York 271 Decision* ¶ 258 ("Uncertainty will be minimized if the interim rates are for a few isolated ancillary items"). Here, by contrast, Verizon's true-up proposal would leave in limbo not only the prices for switching, one of the most

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[11] Verizon Application ¶ 34.

[12] Verizon Application at 3, 52; Woltz-Garzillo-Prosini Decl. ¶ 42.

UNEs used by CLECs and one of the most costly components of the UNE platform, but indeed Verizon's prices for its entire universe of UNEs.

No large-scale UNE-based local entry is going occur until UNE prices that permit UNE-based entrants to recover their costs are actually in effect. Particularly now, with most of the CLEC sector in bankruptcy or desperate financial straits, and outside funding for capital investments having dried up, no prudent manager will make the large sunk investments needed for such entry based on a business plan that assumes the implementation of a large number of future rate reductions whose magnitude, timing, and very existence are all speculative. Approving Section 271 entry in Virginia today, based on speculation that more UNE-based entry might occur if broad-based rate reductions were implemented in the future, even retroactively, thus would largely nullify the legislative bargain embodied in Section 271. By Verizon's logic, the establishment of TELRIC-compliant rates would never be a prerequisite for section 271 authorization, for no dispute over rate levels would be too great to brush off with the promise of a future true up.

AT&T does not ask the Commission to resolve in this section 271 docket the myriad cost issues that have been briefed and submitted to the Commission for decision in the arbitration dockets since the end of January. Until the Commission resolves those issues in the arbitration docket, however, there is no reasoned basis for finding that Verizon's existing rates are TELRIC-compliant.

III. VERIZON DOES NOT PROVIDE REASONABLE AND NONDISCRIMINATORY ACCESS TO UNBUNDLED NETWORK ELEMENTS AND DIRECTORY LISTINGS.

Verizon has also failed to show that it has fully implemented the competitive checklist. First, it should be emphasized that any consideration of whether Verizon has complied with the competitive checklist is entirely premature. On July 17, the Wireline Competition Bureau issued its decision in the arbitration proceedings concerning Verizon's interconnection agreements in Virginia with AT&T and others. The *Virginia Arbitration Non-Cost Decision* (¶ 767) requires the parties to incorporate the Bureau's determinations into a revised agreement within 45 days of the order, but the necessary changes have neither been filed by the parties nor reviewed and approved by the Commission.

Moreover, it is clear that Verizon has no intention of complying with the decision until after months or years of further litigation. On August 16—just five days ago—Verizon filed a "Petition for Clarification and Reconsideration" of the decision. In its petition, Verizon seeks substantial modification or outright rescission of much of the relief awarded by the Commission, including Commission-imposed requirements for end office trunking, intercarrier compensation, line sharing and line splitting, the provision of dark fiber, spectrum management, billing procedures, and terms and conditions governing assurance of payment.[13] If the Commission declines to grant the relief sought by Verizon, further litigation in the courts may ensue as well. Accordingly, Verizon has not "fully implemented" the checklist, and the Commission therefore should not consider Verizon's claims at this time.

In all events, Verizon does not provide nondiscriminatory access to unbundled loops or to directory listings. Verizon refuses to provide access to unbundled high capacity loops when "new construction" would be required, which Verizon defines expansively to include simple and routine tasks such as the splicing of existing cables to existing apparatus cases. These policies are severely anticompetitive, as the Hearing

[13] *Virginia Arbitration*, Verizon's Petition for Clarification and Reconsideration of July 17, 2002 Memorandum Opinion And Order (filed Aug. 16, 2002).

Examiner found in the 271 proceeding before the Virginia SCC.[14] Verizon also does not provide nondiscriminatory access to directory listings, because its processes result in a high level of errors for CLEC listings.

A. Verizon Does Not Provide Nondiscriminatory Access To Unbundled High Capacity Loops.

Verizon does not provide nondiscriminatory access to "high capacity" loops (including DS1 and DS3 loops). As the Virginia Hearing Examiner found, Verizon enforces a discriminatory and anticompetitive "no facilities" policy, in which Verizon refuses to provide unbundled access to such loops when it would require "additional construction." *See* Hearing Examiner's Report at 114-18. The Virginia Hearing Examiner found that this policy "has a significant and adverse effect on competition in Virginia, is inconsistently applied across UNEs, is at odds with industry accounting rules, and is inconsistent with TELRIC-pricing principles."

As he explained, Verizon refuses to provide unbundled access to high capacity loops in a wide variety of cases. For example, Verizon considers facilities to be lacking whenever there is "(i) no repeater shelf in the Central Office or customer location or remote terminal; (ii) no apparatus/doubler case available; or (iii) no riser cable or buried drop wire if a trench or conduit is not provided." Va. Hear. Ex. Report at 114. As the Hearing Examiner found, Verizon confirmed during the hearings below that "it will deny a CLEC's UNE DS-1 order for 'no facilities' even when all that Verizon Virginia must [do] to provide the requested service is open a cable sheath to splice existing pairs into an existing apparatus case." *Id.*

[14] Virginia SCC Case No. PUC-2002-00046, Report of Alexander F. Skirpan, Jr., Hearing Examiner (July 12, 2002) ("Va. Hear. Ex. Report").

These policies are patently unreasonable on their face, and the Virginia Hearing Examiner found them to be discriminatory and anticompetitive in a number of respects. First, Verizon's policies are patently anticompetitive. As the Hearing Examiner found, Verizon's policy results in rejection of up to 39 percent of DS-1 UNE orders, a rate that is clearly competitively significant in Virginia. The Hearing Examiner found below that from November 2001 through March 2002, Verizon "confirmed orders for UNE DS-1s that if provisioned, would have provided the equivalent capacity of 117,240 voice grade circuits," while the total CLEC access line growth during the same period in Virginia was 116,652. Va. Hear. Ex. Report at 116. Without question, Verizon's unreasonable "no facilities" policy is retarding the development of competition in Virginia.

Second, Verizon's policy is inconsistent with its provisioning policy for other types of loops. Specifically, Verizon conceded below that for UNE loops other than high capacity loops, "Verizon Virginia would provision the loop to a CLEC even if it is necessary for Verizon Virginia to add a new drop to a new home." Va. Hear. Ex. Report at 116.[15] And more fundamentally, Verizon's policy is flatly discriminatory. Verizon may not refuse to build the new facilities necessary to provision a CLEC's UNE order in circumstances when Verizon would build such facilities to provision its own customer's order.

Third, Verizon's definition of "new facilities" is inconsistent with the Commission's accounting rules. As the Hearing Examiner noted, Verizon classifies opening a cable sheath to splice existing cable pairs into an existing apparatus case as "new construction." The Commission's accounting rules, however, state that "Plant

[15] As the Hearing Examiner also noted, "Verizon Virginia stated that it would make cable pairs available through line station transfers, but following its 'no construction' policy, Verizon Virginia would not splice any of those available pairs into existing repeater cases." *Id.*

Specific Operations Expense accounts shall include the cost of . . . replacing items of plant other than retirement units; rearranging and changing the location of plant not retired . . ." 47 C.F.R. § 32.5999(b)(3). Therefore, "from an accounting perspective, the rearrangement of existing facilities, such as opening a cable sheath to splice existing cable pairs into an existing apparatus case should be accounted for as an expense and not as a capital item." Va. Hear. Ex. Report at 117. The Hearing Examiner found that Verizon could not reconcile the unbundling and the accounting treatment of such activities. *Id.*

Fourth, Verizon's policy is also inconsistent with TELRIC. As the Hearing Examiner noted, the Commission's TELRIC models contain growth and fill factors, and the "fundamental assumption" underlying these factors is that Verizon will expand its network to accommodate forecasted demand in Virginia. Va. Hear. Ex. Report at 117. In particular, "[f]ill factors reflect that a certain level of spare plant will continuously remain available to meet demand, and the costs associated with this plant are included in the TELRIC-based prices." *Id.* Verizon's "no facilities" policy is "at odds" with the Commission's TELRIC methodology, because "it appears to adopt a short-run assumption that no new plant is constructed to meet demand from CLECs." *Id.*

For all of these reasons, Verizon does not offer nondiscriminatory access to unbundled high capacity loops in compliance with the Act and the Commission's rules. The Hearing Examiner concluded that Verizon had satisfied this checklist item only because he believed that the Commission had already approved Verizon's practices in the *New Jersey* and *Pennsylvania 271 Orders*. *See* Va. Hear. Ex. Report at 115; *New Jersey 271 Order* ¶ 151; *Pennsylvania 271 Order* ¶ 92. However, the record before the Virginia SCC clearly establishes that the practical effect of Verizon's policies in Virginia is severely anticompetitive and discriminatory, and constitutes a substantial roadblock to competition. Based on the Hearing Examiner's express findings on the anticompetitive effect of Verizon's "no facilities" policy, the Commission should find that Verizon has not satisfied checklist items two (nondiscriminatory access to unbundled elements) and four (unbundled loops).

B. Verizon Does Not Provide Nondiscriminatory Access To Directory Listings.

Verizon also does not provide nondiscriminatory access to directory listings in accordance with checklist item eight (47 U.S.C. § 271(c)(2)(viii)). Verizon's processes have resulted in substantial inaccuracies in the listing of CLEC numbers, and Verizon has not yet demonstrated that those errors have been corrected.

As the Hearing Examiner specifically stated, "I disagree with any attempts by Verizon Virginia to minimize the level of directory problems that have been experienced in Virginia." Va. Hear. Ex. Report at 145. The Hearing Examiner noted that there were "thousands of mistakes" in the Richmond directory. *Id.* The Hearing Examiner also emphasized that KPMG raised issues with respect to the accuracy of the listings. *Id.* As a result of these persistent and widespread problems, the Virginia Commission has instituted an examination of Verizon's processes relating to directory listings. *Id.* These problems are particularly severe and anticompetitive, because they typically cannot be corrected until the next set of white pages is issued a year later. *See id.*

The Hearing Examiner found that Verizon had complied with the checklist, based on certain improvements in Verizon's processes in recent months, including an electronic, sortable report of listings to be made available to CLECs. *See id*. at 145-46. It is too early to determine, however, whether Verizon's promises and "improvements" will actually result in improved accuracy of listings. The Commission should not find that Verizon has satisfied this checklist item.

IV. VERIZON'S ENTRY INTO THE INTERLATA MARKET IS INCONSISTENT WITH THE PUBLIC INTEREST.

Even if the Commission could find that Verizon had fully implemented its obligations under the competitive checklist, the record here precludes any finding that Verizon's entry into the interLATA market in Virginia would be consistent with the public interest. At the heart of the public interest inquiry, as Congress conceived it and as this Commission has explained, is a determination of whether, notwithstanding checklist compliance, the local market is in fact fully and irreversibly open to competition. Because the Commission cannot make this determination in Virginia, a grant of section 271 authority is premature and wholly at odds with the fundamental premise of the Act.

A. InterLATA Authorization Is Not In The Public Interest Unless Verizon's Local Markets Are Irreversibly Open To Competition.

As a threshold matter, Verizon "disagrees as a legal matter that the Commission may conduct any analysis of local competition in its public interest inquiry." Verizon Br. 89 n.69. The Commission has previously considered and flatly rejected the argument once again advanced by Verizon:

> "We reject the view that our responsibility to evaluate public interest concerns is limited narrowly to assessing whether BOC entry would enhance competition in the long distance market. We believe that our inquiry must be a broader one. The overriding goals of the 1996 Act are to open all telecommunications markets to competition by removing operational, economic, and legal barriers to entry, and, ultimately, to replace government regulation of telecommunications markets with the discipline of the market. In order to promote competition in the local exchange and exchange access markets in all states, Congress required incumbent LECs, including the BOCs,

> to provide access to their networks in a manner that allows new entrants to enter local telecommunications markets through a variety of methods. In adopting section 271, Congress mandated, in effect, that the Commission not lift the restrictions imposed by the MFJ on BOC provision of in-region, interLATA services, until the Commission is satisfied on the basis of an adequate factual record that the BOC has undertaken all actions necessary to assure that its local telecommunications market is, and will remain, open to competition."[16]

Moreover, in Verizon's view (Br. 92-94), the Commission should virtually presume that the public interest will be served by granting Verizon's application, because (in Verizon's view) Verizon has met its checklist obligations and approval of its application will spur competitors to enter the local market. Any such presumption, however, would conflict directly with the plain language of the statute, which puts the burden on the applicant to show that its entry would be "consistent with the public interest;" the Commission has squarely rejected the argument that the public interest test can be satisfied by simply presuming that the benefits of entry into long distance will outweigh competitive harms from premature authorization.[17]

In fact, the absence of meaningful local competition is itself a compelling reason to reject an application as inconsistent with the public interest.[18] The lesson from

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[16] *Michigan 271 Order* ¶ 386. *See also Massachusetts 271 Order* ¶ 233 ("we may review the local and long distance markets to ensure that there are not unusual circumstances that would make entry contrary to the public interest under the particular circumstance of this application").

[17] *See Michigan 271 Order* ¶ 43 ("Section 271 places on the applicant the burden of proving that all of the requirements for authorization to provide in-region, interLATA services are satisfied"); ¶ 388 ("As we have previously observed, 'the entry of the BOC interLATA affiliates into the provision of interLATA services has the potential to increase price competition and lead to innovative new services and marketing efficiencies.' Section 271, however, embodies a congressional determination that, in order for this potential to become a reality, local telecommunications markets must first be open to competition so that a BOC cannot use its control over bottleneck local exchange facilities to undermine competition in the long distance market. Only then is the other congressional intention of creating an incentive or reward for opening the local exchange market met.")

[18] *See Sprint* v. *FCC*, 274 F.3d 549 (D.C. Cir. 2001).

experience in Texas is clear: allowing an incumbent LEC to provide interLATA services before local markets are open will not spur successful local competition.[19] If CLECs cannot profitably offer local residential service to customers, they cannot and will not effectively compete in local markets, regardless of whether the incumbent has obtained long-distance authorization.[20]

Accordingly, as the Commission has recognized, granting Verizon's request for long distance authority can serve the public interest only if the Commission finds that the BOC's "local market is open and will remain so."[21] In order to determine whether the BOC's local telecommunications markets are in fact open to competition, the Commission first reviews the extent to which new entrants "are actually offering" local service to both business and residential customers through *each of the three means* offered by the Act. *Michigan 271 Order* ¶ 391. Second, where local competition is not securely established, the Commission determines whether this reflects the continuing presence of entry barriers and BOC misconduct, or is attributable instead solely to the business decisions of potential new entrants.

[19] Although Verizon boasts (Br. at 93) of competition currently being provided by Texas CLECs, the January 2001 *TPUC Report* on the "Scope of Competition in Telecommunications Markets of Texas" reveals that "monopoly power exists . . . in residential and rural markets in Texas" (*id.* at 83; *see* xiii) and severe financial problems have caused both large and small CLECs to reduce or eliminate their residential service in Texas (*id.* at 55-58, 80-81). The Report also reveals that the lack of competition has permitted SWBT to extend its monopoly into the provision of bundled combinations of local and long distance services, and to *raise* its prices for local services to both residential and business customers. *Id.* at x, 62-64, 79, 81). In sum, the TPUC concludes: "By the end of 2000, SWBT's financial position had strengthened relative to the CLECs. *SWBT's entry into the long distance market has weakened the ability of CLECs to challenge SWBT in local voice service*. *Id.* at 81 (emphasis added).

[20] Emboldened by its ability to market bundles of local and long distance services without any competition, in February, 2001, SWBT *raised* its residential long distance rates in Texas by 10 to 33 percent, *increased* its basic rates for long-distance service by more than 10 percent, and *also increased* the "discounted rate" for customers who buy other services from SWBT by 33 percent. "SWBT Raises Nonlocal Call Rates: Company Says Prices Better Reflect Costs," *The Dallas Morning News*, February 2, 2001.

[21] *See SBC Texas 271 Order* ¶ 431.

B. Verizon Maintains Monopoly Power Over Residential Service In Virginia.

The "Act contemplates three paths of entry into the local market – the construction of new networks, the use of unbundled elements of the incumbent's network, and resale," (*id.* ¶ 96). Congress "sought to ensure that all procompetitive entry strategies are available." *Id*. ¶ 387. As the Commission has recognized, its "public interest analysis of a section 271 application, consequently, *must* include an assessment of whether all procompetitive entry strategies are available to new entrants." *Id.* (emphasis added). And, as the Commission explained in the *Michigan 271 Order*, "[t]he most probative evidence that all entry strategies are available would be that new entrants *are actually offering* competitive local telecommunications services to different classes of customers (residential and business) through a variety of arrangements (that is, through resale, unbundled elements, interconnection with the incumbent's network, or some combination thereof) in different geographic regions (urban, suburban, and rural) in the relevant state, and at different scales of operation (small and large)." *Id.* ¶ 391 (emphasis added). In subsequent applications, the Commission has repeatedly considered the degree to which competitors have actually succeeded in offering local telecommunications services using the different entry strategies prescribed by the Act. *See, e.g., New York 271 Order* ¶¶ 13-14; *Texas 271 Order* ¶¶ 5-6.

Here, Verizon's own data confirm that there has been almost no UNE-based entry in Virginia. Using the E911 and UNE-P data presented by Verizon witness John A. Torre, Tables 1-2 show the amount of CLEC competition Verizon claims to exist in Virginia. Table 1 shows that ½ of 1% of the lines in Virginia are served by UNE-based competitors. Table 2 shows that less than ½ of 1% of the residential lines in Verizon's Virginia service territory are served by UNE-based competitors.

TABLE 1: Total CLEC Penetration in Verizon's Virginia Service Territory

	Quantity	**Share**
Verizon Retail Switched Access Lines[22]	3,800,000	83.3%
CLEC Facilities-Based Lines (Torre Dec., Att. 1 Table 1)	655,000	14.4%
CLEC UNE-P Lines (Torre Dec., Att. 1 Table 1)	21,000	0.5%
CLEC Resale Lines (Torre Dec., Att. 1 Table 1)	87,000	1.9%
Total Lines in Verizon Virginia Service Territory	**4,563,000**	**100.0%**

TABLE 2: Residential Market CLEC Penetration in Verizon's Virginia Service Territory

	Quantity	**Share**
Verizon Retail Residential Switched Access Lines [23]	2,269,000	90.9%
CLEC Residential Facilities-Based Lines (Torre Dec.. Att. 1 Table 1)	192,000	7.7%
CLEC Residential UNE-P Lines (Torre Dec. Att. 1 Table 1)	6,600	0.3%
CLEC Residential Resale Lines (Torre Dec. Att. 1 Table 1)	29,000	1.2%
Total Residential Lines in Verizon Virginia Service Territory	**2,496,600**	**100.0%**

The prospects for increased UNE-based competition are bleak. If Verizon actually offered CLECs non-discriminatory access to the full economies of scale in its existing network, the Commission should see meaningful entry by and increasing competition from UNE-based entrants. Yet, since the passage of the Act, all CLECs combined have managed to serve only trivial numbers of UNE-based lines in Virginia – only ½ of 1% of all lines and an even smaller percentage of residential lines. Moreover, these paltry volumes of UNE-P lines are concentrated in the northern Virginia, Richmond and Tidewater areas; as of March 2002, two-thirds of Verizon's wire centers had fewer

[22] FCC, Statistics of Communications Common Carriers as of December 31, 2000, at Table 2.6 (September 15, 2001).

[23] FCC, Statistics of Communications Common Carriers as of December 31, 2000, at Table 2.6 (September 15, 2001).

than 50 UNE-P arrangements.[24] Even more alarming, in almost a quarter of Verizon's Virginia wire centers, the number of UNE-P arrangements *declined* or *stagnated* between December 2001 and March 2002.[25]

In addition, as Attachment 1 hereto shows, many of the facilities-based CLECs that Verizon identifies as its competitors in Virginia,[26] have gone, or are going, out of business or are otherwise in financial distress.

Finally, resale is an inherently limited competitive vehicle, both because resale-based competitors cannot alter the nature of the service they are reselling (and thus cannot provide consumers with innovative or improved services), and because resale is priced in a manner that precludes its use in all but the most selectively chosen circumstances.[27] Moreover, in fully 66% of Verizon's wire centers, the number of resale arrangements declined or stagnated between December 2001 and March 2002.[28] The record thus shows that resale is not a growing, viable source of future competition for Verizon in Virginia.

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[24] *Verizon Virginia Inc.'s compliance with the conditions set forth in 47 U.S.C. § 271(c)*, VA State Corporation Commission Case No. PUC-2002-00046, Supplemental Declaration or Robert J. Kirchberger on Behalf of AT&T Corp., ¶ 3 (June 13, 2002).

[25] *Id.* ¶ 7.

[26] Torre Decl. Att. 1 ¶¶ 23-50.

[27] The avoided cost discount has proved inadequate to provide CLECs a basis for profitable entry for most consumers. For example, as monopolists, the incumbents do not face (and therefore do not "avoid") the huge customer acquisition costs that CLECs confront, nor do they face the lack of economies of scale that a new entrant must address. And CLECs providing resale do not benefit from access revenue. For all of these reasons, CLECs seeking to provide a broad-based, significant competitive alternative to the incumbents' local residential monopoly cannot do so through the resale of local service.

[28] *Verizon Virginia Inc.'s compliance with the conditions set forth in 47 U.S.C. § 271(c)*, VA State Corporation Commission Case No. PUC-2002-00046, Supplemental Declaration or Robert J. Kirchberger on Behalf of AT&T Corp., ¶ 14 (June 13, 2002).

C. The Lack Of Meaningful UNE- and Facilities-Based Competition In Verizon's Local Residential Markets Is Due To Entry Barriers And Verizon's Conduct.

Because the relevant data show a lack of meaningful UNE-P competition, the Commission must next determine "whether the lack of competitive entry is due to the BOC's failure to cooperate in opening its network to competitors, the existence of barriers to entry, the business decisions of potential entrants, or some other reason." *Michigan 271 Order* ¶ 391. To make this determination, the Commission should consider all "relevant factors" that might "frustrate congressional intent that markets be open [to competition]." *Kansas/Oklahoma 271 Order* ¶ 267. A review of the evidence makes clear that entry barriers and Verizon's own actions have perpetuated its monopoly over residential service in the Virginia states.

In sum, the lack of UNE-based CLEC competition for service in Virginia is due to Verizon's "failure to cooperate in opening its network to competitors" and the "existence of barriers to entry," *not* "the business decisions of potential entrants" that are independent of the entry barriers and BOC misconduct. *Michigan 271 Order* ¶ 391. Nothing suggests that potential UNE-based entrants have decided that the local markets in Virginia, though open, are simply not worth pursuing, or "that competitive alternatives can flourish rapidly throughout the state." *Id.* ¶ 392. The local markets in Virginia are simply not open to competition, let alone irretrievably open.

D. Verizon's Premature And Unlawful Marketing Of Long Distance Services Is A Further Ground For Denial Of Verizon's Section 271 Application.

It has become increasingly clear that Verizon has embarked on a clandestine campaign to market long distance services to local customers in Virginia and elsewhere in its region, regardless of whether the Commission has authorized Verizon to do, or whether Verizon has even filed a Section 271 application. In state after state, Verizon is holding itself out to the public as a provider of long distance services—and hence as a full service, single bill telephony provider—before the Commission has determined that Verizon's local markets have been opened fully to competition.

- On or about February 28, 2002, Verizon's long distance affiliate sent one or more mass mail solicitations to local business customers in Virginia offering a "discounted 7 cents per minute rate on all direct-dialed state-to-state long distance calls . . . consolidated on your local Verizon bill."[29]

- On May 31, 2002, Verizon acknowledged in the New Jersey Section 271 case that Verizon's agent had mailed thousands of letters stating that "Verizon Long Distance is now available in New Jersey," urging consumers to sign up for those long distance services, and even supplying a blank letter to be signed by the consumer authorizing "Verizon Long Distance" to become the customer's preferred carrier for long distance services.[30] Verizon failed to acknowledge, however, that it was also offering long distance service through inserts in its monthly bills to its New Jersey customers – i.e., to virtually all consumers in New Jersey: "[n]ow that Verizon Long Distance is available in New Jersey . . . . [j]ust sign up. . . . When you sign up . . . you'll see your local, regional toll and long distance services all together with ONE-BILL." According to press reports, Verizon sent these false and unlawful billing inserts to more than *500,000* New Jersey customers.[31]

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[29] Letter from *See* Robert W. Quinn, Jr. (AT&T) to Marlene H. Dortch (FCC Secretary), WC Docket Nos. 02-61 and 02-67 (June 17, 2002) (first attachment thereto).

[30] *See* Letter from Dee May (Verizon) to Marlene H. Dortch (FCC Secretary), WC Docket Nos. 02-67 (May 31, 2002).

[31] Bloomberg, *Verizon Retracts Long-Distance Calling Offers in New Jersey* (June 12, 2002). Verizon has also marketed its long distance services illegally in New Jersey through telemarketing and on-the-air advertisements in at least one local cable television channel. *See* Letter from Robert W. Quinn, Jr. (AT&T) to Marlene H. Dortch (FCC Secretary), WC Docket Nos. 02-61 and 02-67 (June 17, 2002) (second attachment thereto); Letter from Robert W. Quinn, Jr. (AT&T) to Marlene H. Dortch (FCC Secretary), WC Docket No. 02-67 (June 20, 2002); *id*., Khawaja Supp. Decl.; Letter from Robert W. Quinn, Jr. (AT&T) to Marlene H. Dortch (FCC Secretary), WC Docket No. 02-67 (June 21, 2002).

- On August 12, 2002, Verizon acknowledged that it had illegally offered long distance service not only in New Jersey, but also in Delaware, Maine, New Hampshire, New Jersey, Vermont—and Virginia.[32]

These premature and illegal marketing campaigns are obvious attempts to seize the very competitive advantage that section 271 was designed to prevent, and quite plainly and irreparably harm both the public interest and AT&T and other competitors that do have long distance authority.[33] Under the circumstances, the public interest requires that the Commission deny the present application—and any other pending Verizon applications for Section 271 approval in other states—until the Commission determines the extent of the violations, and adopts effective remedies for past violations, and imposes effective safeguards to prevent future such violations in the future.

Unless and until Verizon actually receives Commission authority under Section 271 to "provide" interLATA services in Virginia, it is flatly unlawful for Verizon to market or provide long distance services in Virginia now or, indeed, to have *any* long distance involvement that enables it to obtain a competitive advantage. *See*, *e.g.*, 47 U.S.C. §§ 271(a), 272(g)(2); *Qwest Teaming Order*, 13 FCC Rcd. 21438, ¶ 37 (1998) ("[I]n order to determine whether a BOC is providing interLATA service within the meaning of section 271, we must assess whether a BOC's involvement in long distance markets enables it to obtain competitive advantages."). And in its recent *New Jersey 271*

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[32] *See* Letter from Marie T. Breslin (Verizon) to Marlene H. Dortch (FCC Secretary), WC Docket Nos. 02-61, 02-157, 02-214 and 02-7 (Aug. 12, 2002).

[33] *See Qwest Teaming Order* ¶ 5 ("Congress recognized that, unless the BOCs had some affirmative incentive to open their local markets to competition, it would be highly unlikely that competition would develop expeditiously in the local exchange and exchange access markets. Accordingly, section 271(a) allows a BOC to enter the in-region, interLATA market, and thereby offer a comprehensive package of telecommunications services (*i.e.*, one-stop shopping for local and long distance service), only after it demonstrates, among other things, compliance with the interconnection, unbundling, and resale obligations that are designed to facilitate competition in the local market.")

Order, the Commission responded to Verizon's premature marketing of long distance services in New Jersey by confirming that the Act prohibits the marketing of long distance services by a BOC without section 271 authority even where "actual" long distance services are not being offered: "BOCs should not market long distance services in an in-region state prior to receiving section 271 approval from the Commission for that particular state." *New Jersey 271 Order*, FCC 02-189, WC Docket No. 02-167, ¶ 190 (June 24, 2002).

There can be no debate that Verizon's marketing violates several provisions of the Communications Act. *See New Jersey 271 Order* ¶ 190 ("BOCs should not market long distance services in an in-region state prior to receiving section 271 approval from the Commission for that particular state, and we remind Verizon and the other BOCs to exercise caution in this regard."). Section 272(g)(2) expressly forbids a BOC from "market[ing]" interLATA services "until such company is authorized to provide interLATA services . . . under section 271(d)." 47 U.S.C. § 272(g)(2). No such approval has been granted for the States at issue.

Verizon's marketing campaigns also constitute the "providing" of in-region long distance services in violation of section 271(a). In its *Qwest Teaming Order*, the Commission established a straight-forward test for determining whether a BOC's involvement in the long distance market constitutes "providing" long distance: "whether a BOC's involvement in the long distance market enables it to obtain competitive advantages, thereby reducing its incentive to cooperate in opening its local market to competition." *Qwest Teaming Order* ¶ 37. Measured against this standard, Verizon is clearly "providing" long distance in Virginia and other states before obtaining Commission approval. Verizon is expressly holding itself out today as a "one-stop" source for local, data and long distance services. That clearly gives it the precise type of "jumpstart" over other providers that section 271 was designed to prevent.

As noted above, this is not the first time that a BOC has attempted to gain a jumpstart on a section 271 application by marketing long distance services in advance of Commission approval of that application. During the New Jersey section 271 proceeding, AT&T brought to light similar misconduct by Verizon, including mass market mailings advertising Verizon's long distance services in New Jersey.[34] Nonetheless, the Commission denied AT&T's request to reject Verizon's section 271 application for New Jersey, "defer[ing]" the matter to an enforcement proceeding. *New Jersey 271 Order* ¶ 190.

The Commission did "remind . . . all BOCs to exercise caution in this regard." *Id.* Absent clear and substantial consequences, however, the BOCs will inevitably calculate that the enormous benefits that can be accrued from gaining an unlawful jump start into the long distance market outweigh the risks, if any, of post-271 enforcement actions.[35]

Accordingly, AT&T respectfully requests that the Commission should deny outright Verizon's section 271 application in this proceeding. The Commission is required to determine in assessing a BOC application for in-region, interLATA authority whether "the requested authorization is consistent with the public interest, convenience, and necessity." 47 U.S.C. § 271(d)(3)(C). As the Commission has explained, the public

[34] *See, e.g.,* Motion of AT&T Corp. for Emergency Relief, WC Docket No. 02-67 (filed June 13, 2002); Reply of AT&T Corp., WC Docket No. 02-67 (June 17, 2002); *Ex Parte* Letter from Robert Quinn (AT&T) to Marlene Dortch (FCC), WC Docket No. 02-67 (filed June 18, 2002).

[35] More recently, BellSouth acknowledged in its Section 271 proceeding for Alabama, Kentucky, Mississippi, North Carolina and South Carolina, that the company recently offered long distance service to "approximately 130,000 customers" in an unspecified number of those states. *See* Letter from Kathleen B. Levitz (BellSouth) to Marlene Dortch (FCC Secretary) (filed Aug. 8, 2002), WC Docket No. 02-150.

interest standard is not met where there is "evidence that a BOC applicant has engaged in discriminatory or other anticompetitive behavior, or failed to comply with state and federal telecommunications regulations." *Michigan 271 Order* ¶ 397. "Because the success of the market opening provisions of the 1996 Act depend, to a large extent, on the cooperation of incumbent LECs, including the BOCs, with new entrants in good faith compliance by such LECs with their statutory obligations, evidence that a BOC has engaged in a pattern of discriminatory conduct, or disobeying federal and state telecommunications regulations would tend to undermine our confidence that the BOC's local market is, or will remain, open to competition once the BOC has received interLATA authority." *Id.* Thus, evidence "that a BOC applicant has violated federal telecommunications regulations . . . is relevant to [the Commission's] inquiry under section 271." *Id.* ¶ 374.

AT&T has already demonstrated that Verizon does not satisfy the Act's standards for providing long distance in Virginia because it has not met the checklist and the local markets at issue are not open for competition.[36] Verizon's violations of the Act now provide a further, independent ground for the Commission to reject Verizon's pending application. The Commission has made clear that the "public interest" standard of section 271(d)(3)(C) is not met where there is "evidence that a BOC applicant has engaged in discriminatory or other anticompetitive behavior, or failed to comply with state and federal telecommunications regulations." *Michigan 271 Order*, 12 FCC Rcd. 20543, ¶ 297 (1997). Until Verizon's patent violations of the Act are fully identified and

[36] At a minimum, the Commission should suspend this application until such an investigation is concluded. But, if Verizon refuses to consent to such a suspension, the only appropriate course is an outright denial.

remedied – and procedures are put in place to ensure that similar "mistakes" are not made – Verizon cannot obtain authority to provide long distance in these States.

In addition, the Commission should enter a standstill order expressly directing Verizon immediately to cease and desist from advertising that it has long distance authority in any State in which it does not, in fact, have such authority or otherwise holding itself out as a long distance provider. The Commission has clear authority under section 4(i) of the Communications Act and has not hesitated to exercise that authority to grant similar relief in similar circumstances. *See Ameritech Standstill Order*, 13 FCC Rcd. 14,508 (1998).

Finally, in light of the facially deficient explanations for the mailings provided by Verizon to date, and Verizon's failure to take appropriate safeguards to ensure that future violations do not occur, the Commission should direct Verizon to submit a sworn statement by September 5, 2002 that details: (i) the scope of the impermissible mailings in Virginia and other Verizon states; (ii) the number of customer inquiries received in response to the mailings; (iii) how those inquiries were handled by Verizon employees, including whether any Verizon employees offered to change the customer's primary interexchange carrier or to place the customer on any time of "waiting list"; (iv) what remedial steps have been taken to notify customers of the false statements; and (v) and what steps Verizon is taking to prevent further such violations of section 271. In addition, Verizon should be directed to submit to the Commission all documents relating to the improper solicitations, including any customer representative instructions or "scripts" for responding to inquiries.

CONCLUSION

For the foregoing reasons, Verizon's application for authorization to provide in-region, interLATA services in Virginia should be denied.

Respectfully submitted,

/s/ Mark C. Rosenblum

David W. Carpenter
SIDLEY AUSTIN BROWN & WOOD
Bank One Plaza
10 South Dearborn Street
Chicago, Illinois 60603
(312) 853-7000

Mark C. Rosenblum
Lawrence J. Lafaro
James J.R. Talbot
AT&T CORP.
295 North Maple Avenue
Basking Ridge, NJ 07920
(908) 221-8023

David M. Levy
James P. Young
Richard E. Young
SIDLEY AUSTIN BROWN & WOOD, L.L.P.
1501 K St., N.W.
Washington, D.C. 20005
(202) 736-8000

Attorneys for AT&T Corp.

August 21, 2002

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Comments of AT&T Corp. was served, by the noted methods, the 21st day of August, 2002, on the following:

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Room CY-B402
Washington, D.C. 20554
By Electronic Filing

Janice Myles
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.W.
Room 5-C327
Washington, D.C. 20554
By Hand

Katie Cummings
Deputy Director
Division of Communications
Virginia Corporation Commission
1300 East Main Street
Richmond, VA 23219
By Electronic Filing

Laura Starling
U.S. Department of Justice
Antitrust Division
Telecommunications and Media Enforcement Division
1401 H. Street, N.W.—Suite 8000
Washington, DC 20530
By Hand

Benjamin Brown
U.S. Department of Justice
Antitrust Division
Telecommunications and Media Enforcement Division
1401 H. Street, N.W.—Suite 8000
Washington, DC 20530
By Hand

Qualex Internationals
Federal Communications Commission
445 12th Street, S.W.
Room CY-B402
Washington, D.C. 20554
By Hand

/s/ Peter M. Andros
Peter M. Andros